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## WEEK IN REVIEW - APRIL 19-24, 1999

### HOUSE FLOOR

The House of Representatives adopted the Conference Committee Report on **H.3188**, which revises speed limits on the state's roads. As amended, the bill provides for the following maximum speed limits: seventy miles an hour on the interstate highway and other freeways where official signs giving notice of the speed limit are posted; sixty miles an hour on multilane divided primary highways where official signs are posted giving notice of this speed limit; fifty-five miles an hour in other sections of highways; forty miles an hour on unpaved roads; thirty miles an hour in urban districts. A local authority may, on the basis of engineering and traffic investigations, determine that the maximum speed limit in an urban district is less than thirty miles an hour. The bill also provides that a manufactured, modular, or mobile home must not be transported at a speed in excess of ten miles below the maximum posted speed limit when the maximum posted speed limit is in excess of forty-five miles an hour. However, a manufactured, modular, or mobile home may never be transported at a speed in excess of fifty-five miles an hour. The bill revises the phrasing on signs posted to inform drivers of the penalties for speeding in a work zone. The bill defines the interstate system as consisting of the segments of the highways in South Carolina in the officially designated national system of interstate and defense highways. The bill also establishes requirements for the vegetation management which the Department of Transportation conducts on the roadsides, medians, and interchanges along the interstate highway system. The legislation also provides that, notwithstanding any other provisions of law, a commercial motor vehicle driver may not be assessed points against his driving record for failing to comply with lane restrictions posted on the interstate highway system by the Department of Transportation.

The House amended, approved and sent to the Senate **H.3465** which revises minimum ages for entering into a valid marriage so as to subject males and females to the same standard. The bill provides that any person under the age of sixteen is not capable of entering into a valid marriage, and common-law marriages entered into by persons under the age of sixteen are void. Current law provides for a minimum age of sixteen for males and fourteen for females.

The House approved and sent to the Senate **H.3811** which grants counties and municipalities an extension on the time by which they must comply with provisions related to zoning and planning authority imposed under the South Carolina Comprehensive Planning Enabling Act of 1994. Under the 1994 Act, local governments must be in compliance by May 3, 1999, and pre-existing state and local laws are repealed. The bill moves the effective date to December 31, 1999.

The House approved and sent to the Senate **H.3581** which authorizes the State Board of Financial Institutions to issue operational instructions allowing state-chartered banks, savings and loan associations, credit unions, and licensed financial companies to engage in certain activities. The operational instructions may permit state-chartered banks to engage in any activity authorized for national banks or any activity authorized for state-chartered savings and loan associations. The operational instructions may permit state-chartered savings and loan associations to engage in any activity authorized for federally-chartered savings and loan associations, or any activity authorized for state-chartered banks. Cooperative credit unions may be permitted to engage in any activity authorized for federally-chartered credit unions. Additionally, licensed consumer finance companies may be permitted to engage in

any lending activity authorized for supervised financial organizations, except where such activities are otherwise restricted by statute. The legislation confers the authority to issue such operational instructions to the State Board of Financial Institutions as a means of providing parity among state-chartered and federally-chartered institutions.

The House approved and sent to the Senate **H.3715** which provides for various revisions to the statutes pertaining to South Carolina Building Codes Enforcement Officers. Current law provides that Codes Enforcement Officers must receive a one-year provisional registration upon initial employment by a local government. The bill changes the duration of this provisional registration from one year to the time period which the Building Codes Council establishes for each registration class through regulation. Additionally, the bill eliminates references to a list of specific building code standards found throughout the statutes, and replaces these specific references with general references to building codes standards promulgated, published, or made available by the Southern Building Code Congress International, Incorporated. The general references are substituted to allow for a smooth transition should the Southern Building Code Congress replace regional standards with an International Building Code. The legislation also changes the due date by which the Department of Labor, Licensing and Regulation's must report on how funds have been expended on training, certification, and continuing education programs for building codes enforcement officers. The due date is changed from January 15 to July 15 so as to coincide with the fiscal year.

The House also approved and sent to the Senate **H.3716** which provides for various revisions to the Modular Buildings Act. The bill eliminates references to a list of specific building code standards found throughout the statutes, and replaces these specific references with general references to building codes standards promulgated, published, or made available by the Southern Building Code Congress International, Incorporated. The general references are substituted to allow for a smooth transition should the Southern Building Code Congress replace regional standards with an International Building Code. The bill eliminates the Modular Buildings Board of Appeals, and reassigns its authority and responsibilities to the State Building Codes Council. Under current law, if a modular building unit manufacturer fails to comply with a corrective order relating to the structure of its building units, the labels of certification must be removed. Under the legislation, a failure to comply would prohibit any new labels from being issued to a manufacturer until the units are brought into compliance. The bill replaces annual renewal of licenses for wholesale or retail manufactured homes sales with biennial renewal. The bill also eliminates certain obsolete language.

The House amended and sent to the Senate **H.3798** which makes revisions pertaining to General and Mechanical Contractors. The bill revises the way in which a Group 3 and 4 General and Mechanical Contractors may satisfy the financial statement requirement in renewing his license. Current law requires a financial statement compiled by a licensed certified public accountant or licensed public accountant to be submitted for initial licensure and renewal of a license. Under the bill, the financial statement compiled by a licensed certified public accountant or licensed public accountant must still be submitted for initial licensure, but an owner-prepared financial statement with an affidavit of accuracy is to be submitted for the renewal of a license. The amendment approved by the House provides that the State and its political subdivisions may do work up to the amount allowed for Group 3 General Contractors and Group 4 Mechanical Contractors without having to comply with the provisions relating to the licensure of general and mechanical contractors. The amendment also eliminates a requirement that the State and its political subdivisions employ a qualified party in the appropriate classification. As amended, the bill also provides an

exemption for the Department of Corrections for projects in which all labor is drawn from the department's own labor forces.

The House amended and returned to the Senate **S.56** which revises the enforcement mechanisms for ensuring that the utilities regulated by the Public Service Commission provide adequate and proper water and sewer service. Under current law, if a utility fails to comply with the Public Service Commission's order to provide adequate and proper service, the Commission has the option to impose a penalty not exceeding one hundred dollars per day. Under the bill, the Commission is required to impose such a penalty for noncompliance in an amount not less than one hundred dollars per day but not more than one thousand dollars per day. The bill also increases the amount of the bond which a utility must file with the Commission before the Commission may authorize construction, operation, maintenance, acquisition, expansion, or improvement of any water or sewer facility. Currently, a bond in the amount of no less than ten thousand and no more than fifty thousand dollars is required; under the bill, a bond of no less than one hundred thousand and no more than three hundred fifty thousand dollars is required. The House amended the bill by removing a provision pertaining to the salaries for the chairman and members of the Public Service Commission.

The House amended and returned to the Senate **S.539** which eliminates certain countersignature requirements imposed upon insurance business. Current law requires that business of insurers in the state must be conducted through agents who reside in the state or through applications of the agents. Current law also provides that all policies except for health and accident and life insurance policies and certificates issued under group insurance policies must be countersigned on behalf of the agent. The bill eliminates the requirement that the agents reside in the state, and instead requires the agents to be licensed in the state. The bill also eliminates various countersignature requirements. Existing countersignature requirements stand in the way of the state's participation in the Uniform Declaration of Treatment and Uniform Licensing proposed by the National Association of Insurance Companies.

The House approved **S.540** and returned the bill to the Senate. This bill provides that when the Budget and Control Board chooses to purchase automobile liability reinsurance, the reinsurance shall be procured through a bid process in accordance with the SC Consolidated Procurement Code with a contract not to exceed three years.

The House amended, approved and sent to the Senate **H.3591**, a joint resolution which provides for a three-year pilot program in all game zones limiting the hunting season for raccoon to a period from October 1 through March 15 with weapons and dogs, and March 16 through September 30, with dogs, but without weapons. Penalties are established for failure to comply. All fines collected for violations of the bill are to be forwarded to the appropriate county game fund in the county where the violation occurred.

The House amended **S.27** and returned the bill to the Senate. This bill makes it illegal to give away a live animal as a prize in a contest or game or as an inducement to enter a place of amusement. Penalties are established for violations. The bill allows auctioning and raffling of live animals.

The House approved and sent to the Senate **H.3111**, a bill which designates the spotted salamander, *Ambystoma maculatum*, as the official state amphibian.

The House approved and sent to the Senate H.3891. This bill provides that all lanes of that portion of U.S. Highway 76 in Florence County lying between the intersection of Road 107 and Road 106 are considered within the Timmonsville Magisterial District.

The House approved and enrolled for ratification S.542. This bill amends the definition of the term "intangible property" as used in the Uniform Unclaimed Property Act by excluding from that definition (1) trading stamps and (2) electronic entries representing trading stamps that are awarded to retail customers incident to the purchase of goods.

The House approved and sent to the Senate H.3912 which revises "no wake" zones on the New River in Beaufort County.

The House approved and enrolled for ratification S.240 which increases from five to seven the membership of the Board of Officers for the Washington Light Infantry and Sumter Guards and revises the manner in which board members are appointed.

## SENATE FLOOR

TUESDAY APRIL 20, 1999

The following bills were amended, read for the third time, and ordered sent to the House:

- S.403 a bill pertaining to children in foster care with the Department of Social Services
- S.597 a bill relating to restricted drivers' licenses

S.351 was amended and read for the second time with notice of general amendments. This bill relates to the recording of a satisfaction or cancellation of a mortgage.

The Senate adopted a committee amendment and gave second reading with notice of general amendments to the following:

- S.591, a bill amending the Pollution Control Act
- S.619, a joint resolution establishing the Electronic Equipment Recycling Program
- H.3445, a bill repealing *South Carolina Code of Laws* 59-107-90, relating to the one hundred twenty million dollar over all debt limit on state institution bonds

The Senate adopted a committee amendment and gave second reading to H.3579, a bill pertaining to the establishment of a statewide uniform grading system.

Upon unanimous consent, the Senate adopted the Report of the Senate Finance Committee and gave second reading with notice of general amendments to H.3696, the General Appropriation Bill.

WEDNESDAY APRIL 21, 1999

For a summary of the Conference Committee Report for H.3188, please refer to the House Floor portion of this week's *Legislative Update*.

The following bills were read for the third time and ordered sent to the House:

- S.33 a bill relating to the Medical Disciplinary Commission

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- **S.239** a bill relating to the rights of disabled persons
- **S.494** a bill relating to the sale of hypodermic needles and syringes
- **S.727** a bill providing for a system of alternative schools for specified students in grades 6-12
- **S.728** a bill establishing the "South Carolina Automated External Defibrillator Act"

**S.120**, a bill relating to tattooing, was amended, read for the third time, and ordered sent to the House.

**S.676**, a bill relating to the State Ethics Commission, was read for the second time with notice of general amendments.

The following bills were amended and read for the second time:

- **S.558**, a bill establishing the South Carolina Indian Affairs Commission
- **S.670**, a bill relating to the hunting of deer near residences

The following bills were read for the second time:

- **S.384**, a bill relating to the designation of places of confinement for a person convicted of an offense against the State
- **H.3919**, a bill relating to the boundaries of the Western Carolina Regional Sewer Authority

The Senate proceeded to consider **H.3696**, the General Appropriation Bill, the question being the third reading of the bill. Debate on this bill was interrupted when the Senate recessed from business for the purpose of attending the Joint Assembly honoring the winners of the 1999 Jean Laney Harris Folk Heritage Awards. The Senate resumed consideration of **H.3696** after the Joint Assembly; however, the debate was interrupted by adjournment.

## THURSDAY APRIL 22, 1999

**Thursday's Senate Journal was not available in time to be included in this week's Legislative Update.**

## JOINT ASSEMBLY

On Wednesday, April 21, the House of Representatives and Senate met in Joint Assembly to present the 1999 Jean Laney Harris Folk Heritage Awards. This year, awards were presented to Nola Harris Campbell, a master potter in the ceramic traditions of the Catawba Tribe; Veronica D. Gerald, an advocate for South Carolina's Gullah culture; the Jackson Brothers, African-American A Cappella Gospel Singers; Harold Vernon Riddle, an Old-Time Fiddler; and "Colonel" Gene Wyatt, a Traditional Country Western Flat-Pick Guitar Player. The award recipients exhibited their works and talents for lawmakers.

## HOUSE COMMITTEE ACTION

## **AGRICULTURE, NATURAL RESOURCES AND ENVIRONMENTAL AFFAIRS**

The House Agriculture and Natural Resources held two meetings in the course of the week. On Tuesday, April 20, the Committee reported out **H.3789**, "The Tobacco Escrow Fund Act," with a majority report of favorable with amendment and a minority report of unfavorable. The bill establishes a reserve fund to guarantee an eventual source of recovery from tobacco product manufacturers who are not a party to the Master Settlement Agreement between the state of South Carolina and other tobacco product manufacturers (signed November 23, 1988 by the State and leading tobacco manufacturers in the United States). The bill requires each tobacco product manufacturers who sells cigarettes to consumers within this state to either: (1) participate in the Master Settlement Agreement, or (2) place funds in an escrow account according to a payment plan that is based on the number of tobacco product units sold. These funds may be withdrawn from the escrow account to pay a future judgement or settlement. A tobacco product manufacturer who places funds in the escrow account shall receive the interest or other appreciation on such funds as earned. If, during a given year, a tobacco product manufacturer paid more into the escrow account than would have been owed if the manufacturer had been participating in the Master Settlement Agreement, the excess funds are to be returned to the tobacco product manufacturer. If funds held in escrow are not released to pay a judgement or settlement, etc., funds shall be released and returned to tobacco product manufacturers twenty-five years after the date they were first placed in escrow. The legislation requires tobacco product manufacturers who are placing funds in escrow to annually certify to the Attorney General that they are in compliance with the legislation. Any tobacco manufacturer who fails in any year to place the required funds into escrow will be notified by the Attorney General who may bring a civil action against the manufacturer. The court may impose a civil penalty not to exceed 5% of the amount improperly withheld from escrow per day of the violation and in total not to exceed 100% of the original amount improperly withheld from escrow. For known violations, the penalty is up to 15% of the improperly withheld amount and a total of up to 300% of the original amount improperly withheld from escrow. If a manufacturer knowingly withholds funds a second time, the manufacturer will be prohibited from selling cigarettes to consumers in this state for up to two years and must pay reasonable costs and attorney's fees incurred by the State for enforcement of the fund.

The full Committee also recommitted to the Wildlife Subcommittee **H.3343** which pertains to the commercial taking and recreational fishing for dolphin.

On Thursday, April 22, the full Committee gave a report of favorable with amendment to **H.3393** which, as introduced, provides that a certificate of title on watercraft may not be transferred if the Department of Natural Resources has notice that property taxes are owed on the watercraft or outboard motor. The Committee approved an amendment which would provide that the transfer would be denied if property taxes payable by the current owner within the past three years are owed on the watercraft or outboard motor.

The Committee gave a favorable report on **H.3783** which transfers Calhoun County from the third game zone, comprised of Aiken, Lexington, and Richland Counties, to game zone six. Berkley, Charleston, Dorchester, and Orangeburg counties currently make up game zone six.

The Committee reported favorably on **H.3909** which repeals the section of the SC Code which provides that it is unlawful to take or possess large-mouth bass less than twelve inches in length in Lake Robinson located in Chesterfield and Darlington Counties.

The Committee reported favorably on **S.358** which provides that the Department of Natural Resources may issue individual tags for taking antlerless deer statewide, except on properties receiving antlerless deer quota permits.

The Committee also recommitted **H.3374** to the Wildlife Subcommittee. This bill provides that the size limit on striped bass taken from Lake Murray during the months of June, July, August, and September is reduced from twenty-one inches to eighteen inches.

## EDUCATION AND PUBLIC WORKS

The full Education and Public Works Committee did not meet this week.

## JUDICIARY

The Judiciary Committee gave a favorable report to **H.3891**. This bill provides that all lanes of that portion of U.S. Highway 76 in Florence County lying between the intersection of Road 107 and Road 106 are considered within the Timmonsville Magisterial District.

**H.3403** received a favorable report with amendment. Currently, in all cases of accounts stated and in all cases in which a sum or sums of money must be ascertained, the legal interest rate is 8% per annum. As introduced, **H.3403** provides that the legal interest rate would be prime rate. Currently, the legal interest rate on accounts and monetary decrees and judgments is 14% per annum. Under the bill as it was introduced, the legal interest rate would be prime rate plus 1%. The introduced version of the bill outlines how to determine the prime rate. The Judiciary Committee's proposed amendment rewrites the bill. The proposed amendment provides that all money decrees and judgments of courts enrolled or entered shall draw interest according to law. Under the proposed amendment the legal interest is 10% a year.

The Judiciary Committee gave **H.3759** a favorable recommendation with amendment. The bill allows persons engaged in commerce in South Carolina that suffer economic loss as a result of a Year 2000 problem, the opportunity to recover the economic loss while providing persons responsible for the Year 2000 problem a safe harbor from unlimited liability.

As introduced, **H.3759** defined the term "economic loss" to mean any damage for breach of contract or breach of warranty recognized under South Carolina Law. The Judiciary Committee's proposed amendment defines "economic loss" as any damage for breach of contract, breach of warranty, or entitlement to a public benefit recognized under South Carolina law.

**H.3759** as introduced defined the term "person" as any damage for breach of contract, breach of warranty, or entitlement to a public benefit recognized under South Carolina law. The proposed amendment corrects this error and defines the term "person" as any individual, corporation, partnership, or other private entity capable under South Carolina law of entering into a contract as defined in item (2) of this section. The proposed amendment also makes grammatical corrections to the bill.

As introduced, **H.3759** provides that this article does not affect nor apply to any claim pending in South Carolina on January 1, 1998, but is applicable to all claims filed on or after January 2, 1998. The Judiciary Committee's proposed amendment provides that this article does not affect nor apply to any claim pending before approval of the Act by the Governor.



The Judiciary Committee's proposed amendment to **H.3759** provides that this article may not be construed to affect, abrogate, amend, or alter any enumerated rights, limitation of remedies, exclusion of damages, or any other provision of an existing contract enforceable as to a Year 2000 problem.

**H.3402**, a bill pertaining to legal interest rate on accounts on monetary decrees and judgments, was tabled.

The Judiciary Committee gave a favorable recommendation to **H.3404**. This bill provides for nonpartisan elections for the members of the Allendale County Board of Education beginning in the year 2000. The bill outlines procedures (1) through which a person may declare his or her candidacy, (2) how the elections are conducted, (3) how election results are determined, (4) the general powers and duties of the education board, and (5) the terms of members elected.

**H.3552**, a bill relating to primary enforcement of seat belt violations, received a favorable report with amendment. As introduced, this bill holds the driver responsible for the failure of any passenger, regardless of the passenger's age, to wear a seat belt or be in a child safety restraint system. The Judiciary Committee's proposed amendment only holds the driver responsible for the failure of passengers under eighteen years of age to wear a seat belt or be in a child safety restraint system.

**H.3552** increases the penalties for seat belt violations from \$10.00 to \$15.00. This bill also increases the maximum fine for any one incident of one or more seat belt violations from \$20.00 to \$25.00. Under the bill, no court costs, assessments, or surcharges may be assessed against the person convicted. The bill prohibits a conviction for a violation of this article from being included in the offender's motor vehicle records maintained by the Department of Public Safety or in the criminal records maintained by the South Carolina Law Enforcement Division.

If a driver is eighteen years of age or older and has passengers in the vehicle 1) under the age of eighteen and 2) not wearing the proper safety restraint, the introduced version of **H.3552** provides that the fine for the underage passengers' failure to wear the proper safety restraint must be imposed against the driver. The Judiciary Committee's proposed amendment imposes the fine for the underage passengers' failure to wear the proper safety restraint against the driver, regardless of the driver's age.

**H.3552** allows law enforcement officers to stop and issue a citation to a driver solely for a seat belt violation. Under this bill, probable cause for a violation of this article must be based upon a law enforcement officer's clear and unobstructed view of a person not restrained.

The Judiciary Committee gave a favorable recommendation with amendment to **H.3361**. When a distribution in kind is made, the personal representative (PR) of the decedent's estate must execute an instrument or deed of distribution assigning, transferring, or releasing the assets. The introduced version of this bill provides that before an instrument or deed of distribution may be recorded, the probate court must certify that the instrument or deed of distribution conforms to the requirements of the will or of the statute of descent and distribution.

The Judiciary Committee's proposed amendment to **H.3361** requires the deed of distribution to indicate:

- 1) that the estate's administration over the asset or assets has been completed, and

- 2) that the distributee's title to the asset or assets as prescribed and transferred by last will and testament or the statute of descent and distribution is confirmed without further obligation to the estate

The proposed amendment to **H.3361** requires the probate judge to examine the deed of distribution before it is recorded to determine that the grantee and grantor names are correct as shown on Form 300PC. The proposed amendment requires the deed of distribution to have the seal of the probate court stamped upon the first page; the stamp is required to have the deed recorded.

Under the proposed amendment to **H.3361**, the failure of a PR to give a deed of distribution does not affect the validity of the administration of the estate because the title to any asset passed according to *South Carolina Code of Laws* §62-3-101 and not by the deed of distribution. However, the proposed amendment does provide that the failure of a PR to give a deed of distribution constitutes a breach of the PR's duties.

**H.3632** received a favorable report with amendment. As introduced, this bill amends the definition of "military firearm" so as to exclude semi-automatic pistols, rifles, and shotguns. The Judiciary Committee's proposed amendment amends the definition of "military firearm" so as to exclude pistols, rifles, and shotguns that fire only one shot for each pull of the trigger.

The Judiciary Committee adjourned debate on **H.3656**, a bill that abolishes common law marriage in South Carolina.

The Judiciary Committee gave a favorable recommendation with amendment to **H.3745**. This bill provides that the office of the Governor will publish an informational pamphlet entitled 'South Carolina Family Respect.' The language of the pamphlet is included in the bill. The bill requires the pamphlet to be distributed to government agencies, offices, and other entities. These other entities include:

- applicants for a marriage license
- individuals that request a certified copy of a birth certificate
- adolescents involved in a county funded adolescent pregnancy prevention program
- couples that file a petition for divorce
- public schools districts that teach sex education
- county health departments to be given to pregnant minors and people seeking birth control
- local mental health facilities

As introduced, the bill provides that county health departments should distribute the informational pamphlets to pregnant minors and persons seeking birth control information. The Judiciary Committee's proposed amendment requires all state and local agencies and institutions that provide health services to distribute the pamphlets to pregnant minors, persons receiving birth control, and persons receiving information on family planning or sexually transmitted diseases.

The government agencies, offices, and other entities are charged with promoting the ideals of the pamphlet and distributing the pamphlet to their constituencies and clients.

**H.3745** designates the Friday before Mother's Day of each year as 'Family Respect Day.' Public high schools must observe Family Respect Day by devoting an appropriate period of time in either classroom instruction or a student body assembly program addressing the

sociological, financial, and educational benefits of the family, abstinence before marriage, and monogamous sexual relationships within the bonds of matrimony.

The Judiciary Committee gave a favorable report to **S.328**. In the case of nonprofit long-term care retirement or life care facilities where there are co-owners, this bill provides that a  $\beta$  vote of the co-owners suffices to waive the regime and regroup or merge the records of the individual apartments with the principal property so long as:

- the individual apartments are unencumbered, or
- if encumbered, the creditors in whose behalf the encumbrances are recorded to agree to accept as security the undivided portions of the property owned by the debtors

**S.542** received a favorable recommendation from the Judiciary Committee. This bill amends the definition of the term “intangible property” as used in the Uniform Unclaimed Property Act by excluding from that definition (1) trading stamps and (2) electronic entries representing trading stamps that are awarded to retail customers incident to the purchase of goods.

The Judiciary Committee gave a favorable report to **H.3525**, a bill that revises the definition of the term “bail bond runner.” Under this bill, a bail bond runner may execute bonds on behalf of a licensed bondsman when a power of attorney has been recorded.

A favorable report with amendment was given to **H.3218**. This bill makes confidential the information that is provided by a taxpayer to a county or municipality in a report, tax return, or application required to be filed by the taxpayer. However, this bill does not prohibit 1) the publication of statistics, 2) the inspection of reports, returns, or applications by persons connected with audits of the taxpayer, 3) appeals by the taxpayer, 4) and collection efforts. Penalties are established for failure to comply.

**H.3218** amends *South Carolina Code of Laws* §12-54-240, relating to the confidentiality requirements of state tax returns, so as to extend these confidentiality requirements to the admissions license tax.

**H.3218** amends *South Carolina Code of Laws* §30-4-440, relating to matters exempt from disclosure under the Freedom of Information Act, so as to make its provisions conform to the new confidentiality provisions in this bill.

**The Judiciary Committee’s proposed amendment for H.3218 was not available in time to be included in this week’s Legislative Update.**

**H.3419** received a favorable recommendation with amendment from the Judiciary Committee. This bill creates the South Carolina Shooting Range Protection Act of 1999. Specifically, this bill defines the terms “shooting range” and “substantial change in use.” **H.3419** regulates nuisance actions for noise brought by property owners against shooting ranges. This bill also provides conditions and limitations for the regulation of noise control of a shooting range by a county or municipal ordinance. This bill does not prohibit a local government from regulating the location and construction of a shooting range.

**The Judiciary Committee’s proposed amendment for H.3419 was not available in time to be included in this week’s Legislative Update.**

The Judiciary Committee gave a favorable recommendation with amendment to **H.3216**. Under this bill, the director of the Department of Corrections must deduct from a prisoner’s wages the amounts required by law for federal and state tax withholdings. This bill establishes a distribution plan for the remainder of a prisoner’s wages so as to include

payments for victim restitution, child support, prisoner room and board, prisoner incidentals, and prisoner escrow account.

**The Judiciary Committee's proposed amendment for H.3216 was not available in time to be included in this week's *Legislative Update*.**

H.3640 received a favorable report with amendment. When a person's criminal charge has been discharged, dismissed, or when the person has been found innocent of a criminal charge, this bill requires the clerk of court to destroy certain records. Also under the bill, the clerk of court is prohibited from retaining certain records. The Judiciary Committee's proposed amendment changes the wording of the bill from "innocent" to "not guilty."

The Judiciary Committee gave a favorable report to H.3411. This bill amends *South Carolina Code of Laws* §56-5-6240, relating to the forfeiture, confiscation, and disposition of vehicles seized from a person convicted of driving under the influence of intoxicating liquors or drugs, or while his or her license is suspended. This bill revises the procedure to dispose of a forfeited vehicle, if the person fails to file an appeal within ten days of his or her conviction. This bill provides that a sheriff or chief of police may contract with a private attorney to provide an individual with representation in a vehicle forfeiture proceeding. This bill further provides that attorney costs must be paid from the proceeds of the sale of the vehicle.

While considering H.3075, a bill requiring the sheriff to give notification to neighbors of a sex offender's residence, the Judiciary Committee adjourned for the day.

The Judiciary Committee adjourned before considering the following bills that were on its agenda for April 20, 1999:

- H.3826 a bill relating to cigarette sales
- S.45 a bill establishing the "Hate Crime Penalty Enhancement Act"

## LABOR, COMMERCE AND INDUSTRY

The House Labor, Commerce and Industry Committee met on Tuesday, April 20, and reported out several bills. The Committee gave a report of favorable with amendment to H.3717 which conforms the licensure and regulation requirements for liquid petroleum gas dealers, transporters, and equipment installers to the uniform statutory framework for boards and commissions under the jurisdiction of the Department of Labor, Licensing and Regulation. The legislation makes various other revisions for dealers, transporters and installers of liquid petroleum products including propane, methane, and butane. The bill increases the membership of the revised Liquid Petroleum Gas Board from five to seven. The legislation also provides for such revisions as a new licensing classification for cylinder exchange facilities and an exemption for specialty contractors who are qualified to work with liquid petroleum gas containers. The Committee approved an amendment to the bill which provides that the licenses issued to individuals working in the liquid petroleum industry are to be renewed on a biennial, rather than an annual, basis.

The Committee reported favorably on H.3779 which revises the definition of "serious injury" under the South Carolina Amusement Riders Safety Code so as to provide that a serious injury is an injury that results in death or requires immediate in-patient hospitalization. Under the new definition provided in the bill, a fracture or disfigurement is considered a serious

injury even if no hospitalization is required. Current law provides that a "serious injury" is an injury that requires medical treatment, other than first aid, by a physician.

The Committee also gave a favorable report to S.540, and reports of favorable with amendment to S.56 and S.539. All of these bills were approved by the full House (Please see *House Week in Review*, this issue).

## MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS

The 3-M Committee gave a favorable recommendation to H.3705. Current state law does not require the person who is appointed to the county veterans' affairs officer position to be a veteran. This bill would require that the county veterans' affairs officer position be filled by a qualified veteran or a qualified nonveteran if the veteran under consideration has lesser qualifications than the nonveteran. This bill defines "veteran" as a person who served on active duty for a period of more than 180 days and was discharged or released from such active duty with an honorable discharge; or if the service was less than 180 days, the person was discharged or released from active duty because of a service-connected disability.

This bill would also require that all county veterans' affairs officers successfully complete a comprehensive course of training and be issued accreditation within two years following initial appointment, either through the Division of Veterans' Affairs or through an accredited national veterans' service organization. Refresher training would be required every two years in order to maintain accreditation. Any county veterans' affairs officer who does not complete the required training and receive accreditation within the first two years of being appointed would be ineligible for reappointment.

The committee gave a recommendation of favorable with amendment to H.3235. As introduced, this bill (entitled the S.C. Automated External Defibrillator Act) would establish standards of care in the use of automated external defibrillators (AED). An AED is a device used to administer an electric shock through the chest wall to the heart. Built-in computers assess the patient's heart rhythm, judge whether defibrillation is needed and then administer the shock.

The bill establishes standards for AED training, maintenance, and use protocols. It requires that any person or entity that acquires an AED ensure: the local EMS provider is notified of the acquisition; AED users are trained in the use of the machine and CPR; the AED is properly maintained and tested; an AED program with guidelines, training, and EMS coordination is in place after review and approval by a licensed health care professional; a person who uses an AED calls 911 as soon as possible; and use of the AED must be reported to a designated licensed health care professional.

The bill also provides limited civil immunity for AED users and the licensed health care professionals and trainers who act in good faith and in compliance with state law.

The committee recommended amending the bill by striking it in its entirety and inserting language which:

- Removes the provisions of the bill from the section of the SC Code governing DHEC regulation of EMS services, and codifies the provisions of the bill in a new separate chapter of the code. In addition, the amendment deletes the requirement that the person or entity that purchases an AED notify the local EMS provider of the acquisition. It also

deletes the requirement for each AED program to include EMS coordination as part of the plan.

- Revises the immunity from liability section of the bill. The immunity provision in the original bill provides that a person who, while acting in good faith, uses an AED, is immune from liability if the person complies with the bill's requirements for AED users. The original bill also provides immunity for a person or entity who, while acting in good faith, acquires an AED if the person or entity complies with the bill's requirements. The immunity provisions in the original bill are tied to the provisions of the Good Samaritan law and the volunteer health care provider liability immunity law. The immunity from liability provision in the amendment is more explicit. Instead of making reference to the Good Samaritan law and the volunteer health care provider liability immunity law, the amendment makes clear that the immunity provisions apply to all AED users and owners who perform or provide this service without expectation of compensation.
- Includes a section stating the provisions of this new chapter do not apply to EMS services, a physician's office or health care facilities such as hospitals and nursing homes. Provision of health care services in these facilities are governed separately in state statutes by DHEC and the State Board of Medical Examiners.

The committee gave a favorable report with amendment to **H.3498**. This bill would enact the Prescription Information Privacy Act. The purpose of the act is to prohibit patient prescription drug information from being transferred to a person or entity without the written consent of the patient. The bill provides for the following exemptions from this prohibition:

1. Transmission of the original prescription order from the health care professional to the pharmacist;
2. Communication among health care professionals and pharmacists who are treating the patient;
3. Request by a patient for information from a drug manufacturer or vender;
4. Information necessary to recall a defective drug or device or other information necessary to protect the health of an individual or the general public;
5. Information subject to other state or federal laws or regulations;
6. Information necessary for payment of health care claims;
7. Information voluntarily disclosed by the patient;
8. Information used in clinical research;
9. Information that does not identify the patient by name used for research or statistical analysis; and
10. Information transferred in connection with the sale of a business or medical practice to another pharmacy or health care professional.

The bill provides that a violation of these provisions is a misdemeanor and may result in a fine of up to \$10,000 per occurrence.

The committee recommendation for amendment to this bill includes the following changes:

Amends definition of "prescription drug information" to allow for a prescription order to be transferred by the staff of a health care professional who is legally authorized to order a prescription drug or device;

Allows for a legal guardian or legal representative to give written consent for transfer of prescription drug information;

Allows for a prescription order to be transferred by the staff of a health care professional who is legally authorized to order a prescription drug or device to the staff of a pharmacist. This change is consistent with the provisions of the Pharmacy Practice Act;

Allows for communication about a patient's prescription drug information among all health care professionals who provide treatment or consultation services for the patient;

Allows for transfer of patient prescription drug information to comply with the requirements of a court order or subpoena;

Allows transfer of patient-identifiable prescription information to a third party for the purpose of internal records maintenance and/or audits or quality assurance programs if the third party makes no other use or further disclosure of the information;

Allows a third party to pick up a prescription from a pharmacy for a patient;

Clarifies that a person or entity is guilty of a misdemeanor if the person or entity knowingly violates the provisions of this act; and

Adds a section comparable to one found in the Physician Patient Record Act to make it clear that the provisions of this act do not invalidate:

1. any other statutory provisions pertaining to medical or prescription records; or
2. any civil actions alleging negligence by a health care professional or pharmacist; or
3. DHEC's statutory authority to obtain medical and prescription records.

The committee gave a favorable recommendation to **S.240**. This bill would increase the membership of "The Washington Light Infantry and Sumter Guards Board of Officers" from five to seven members. The bill would also allow the Commander/Chairman to appoint the board members.

The committee gave a favorable recommendation to **S.252**. This concurrent resolution is a request for DHEC to study the effect of obesity in both adults and children on health complications including, but not limited to, diabetes, hypertension, and heart disease. The concurrent resolution requests that DHEC make recommendations for improvement in public awareness about the health problems associated with obesity and ways to treat the condition. The results of the study and the associated recommendations would be reported to the General Assembly prior to convening the year 2000 session.

## WAYS AND MEANS

The full Ways and Means Committee met and made the following recommendations:

### ▪ **S.379 STATE SCHOOL FACILITIES BOND ACT**

The committee gave a favorable recommendation with amendments to **S.379**. This bill, as introduced in the House, provides for the issuance of \$750,000,000 of General Obligation Bonds for school facilities, which would be distributed to the school districts based upon the "Public School Facilities Assistance" law as part of the "Children's Education Endowment Fund" of 1996. The bill also provides that the State Department of Education would be responsible for informing each school district of its individual allocation.

The committee recommended amending the bill by deleting the bond authorization and providing one billion dollars of school building aid beginning July 1, 2000, from revenues derived over eight years from new taxes imposed on the net income of coin-operated devices. These funds would be allocated to the local school districts based on Average Daily Membership; however, no school would receive less funding than the Senate version of **S.379**, which provides \$750 million of school bonds based on the Barnwell distribution formula. The committee recommendation provides that if the tax on coin-operated devices is not sufficient to meet the annual allocation of \$125 million, any funds derived from a statewide school lottery would be used to reach the annual allocation of \$125 million.

▪ **H.3911 SALES TAX ON FOOD ITEMS**

The committee gave a favorable recommendation with amendments to **H.3911**. This bill, as introduced, provides a phased-in exemption of sales tax on food items which may be purchased with U.S. Department of Agriculture food coupons. These items would be wholly exempt by January 1, 2004. The bill provides for the use of the revenue from the reduced rates of tax during the phase-in period, and provides that general fund revenues must be credited to the EIA fund in fiscal years 1999-00 through 2003-04 to ensure that EIA revenues attributable to food sales are not less than such revenues in fiscal year 1998-99. The bill also provides for the application of local sales and use tax on sales and consumption of these food items regardless of the state exemption for these items.

The committee recommended amending this bill by adding an exemption from sales tax for "cooperative direct mail promotional advertising materials" (as defined in the amendment) delivered by interstate carrier, a mailing house, or a U.S. Post Office to residents of South Carolina, from locations both inside and outside the State.

▪ **H.3267 TAX EXEMPTION FOR ITEMS FOR PHYSICALLY DISABLED**

The committee gave a favorable recommendation with amendments to **H.3267**. This bill, as introduced, provides an exemption from sales and use tax for prescription eyeglasses and other specified items and equipment used in aiding the mobility of physically disabled persons.

The committee recommended amending the bill by restricting the eyeglasses exemption to prescription eyeglasses and contact lenses and raw materials used in the fabrication of such lenses, but *not* including eyeglass frames. The committee also recommended amending the bill by adding an exemption for hospital beds.

▪ **H.3782 SC CONSERVATION INCENTIVES ACT**

The committee gave a favorable recommendation to this bill, which allows an income tax credit equal to twenty-five percent of the value of a federal income tax charitable deduction for a qualified conservation contribution of a qualified real property interest located in South Carolina. The bill caps the credit, and provides for carry-forward and transfer of any unused credit.

The bill also creates the "Conservation Grant Fund" (the Fund), consisting of any monies appropriated to it by the General Assembly and other monies received from public or private sources, and provides for board authority, oversight and administration of the Fund. The bill requires that revenues in the Fund be used only to: defray administrative costs in administering the provisions of the bill; provide education on conservation easements; make conservation grants. The bill delineates specific costs for which grants from the fund may be



used, and prohibits using these funds to pay the purchase price of any interest in real property.

The bill also amends the SC Probate Code relating to transactions authorized for personal representatives for the benefit of the interested persons, so as to authorize a personal representative or trustee, as applicable, with the consent of all affected parties, to make a donation of a qualified conservation easement to obtain a federal estate tax and state income tax credit benefit. The bill also provides for the method to obtain the consent of persons otherwise unable to give such consent.

▪ **H.3833 ELECTRONIC PAYMENTS TO STATE TREASURER**

The committee gave a favorable recommendation with amendment to **H.3833**. This bill, as introduced, allows the State Treasurer to authorize a state agency to accept electronic forms of payment including debit or credit cards, bank debits or credits, or electronic purse options. These electronic payments may only be accepted in the course of an electronic commerce transaction, in which the business transaction is conducted by means of the internet, interactive voice response, or other fully electronic means. The bill provides that processing fees may be withheld from revenues collected.

The committee recommended amending the bill by deleting all references to credit cards.

▪ **H.3834 FISCAL IMPACT STATEMENTS, TAXATION, RETAIL LICENSING, etc.**

The committee gave a favorable recommendation with amendment to **H.3834**. This bill, as introduced, revises current law regarding fiscal impact statements for proposed legislation affecting counties or municipalities, by requiring the acquisition of a fiscal impact statement from the "Board of Economic Advisors" rather than from the "Department of Revenue" as is currently required. The bill amends current law regarding income tax credit for corporate headquarters, by providing for determining the *per capita* income for purposes of calculating additional tax credit for creation of new headquarters by using "the most recent *per capita* income data available at the end of the taxable year the jobs are filled." Current law makes this determination by using as a basis *per capita* income "at the time the jobs are filled." The bill amends current law regarding retail license requirements by deleting the requirement that a festival be listed as a special event with the Department of Parks, Recreation, and Tourism. The bill also amends current law regarding the homestead exemption by providing that the Board of Economic Advisors, instead of the Department of Revenue, estimate the total school tax revenue loss from the exemption. The bill amends current law regarding time limitations for assessment of taxes by increasing from thirty to ninety the number of days a corporation has to file a claim for refund after an adjustment to its taxable income is made by the Internal Revenue Service. The bill also updates the Federal Code through December 31, 1998 and makes other technical, conforming, and clarifying amendments.

The committee recommended amending the bill by changing all references from the "Board of Economic Advisors" to the "Economic Research Section of the Budget and Control Board" for local impact statements.

▪ **H.3835 COLLECTION AND ENFORCEMENT OF TAXES**

The committee gave a favorable recommendation with amendments to **H.3835**. This bill, as introduced, makes numerous technical and clarifying changes to current tax law. The bill also amends current law regarding collection and enforcement of taxes levied by the Department of Revenue by separating civil and criminal penalties in the enforcement statutes. Currently, these penalties are included in the same section. The bill amends current law regarding projects paying a fee-in-lieu-of property taxes by defining "replacement property" as "replacing the oldest property in the project subject to the fee, whether real or

personal, which is disposed of in the same property tax year as the replacement property is placed in service." The bill also provides that the Department of Revenue officers and employees may turn in as receipt for payments only those documents and reports as required by rules adopted and regulations promulgated by the Director of the Department. The bill clarifies the "innocent spouse" provisions in the SC Code of Laws to changes made by the federal government, but the bill does not change current treatment of innocent spouses. The bill provides a clarification of what *per capita* income tax data shall be used for purposes of the classification of the counties for purposes of the jobs tax credit. The bill also clarifies the designations of the counties and clarifies the pass-through provisions of the jobs tax credit. The bill clarifies the *per capita* income data to be used in the definition of "qualifying service related facility" in the jobs tax credit. The bill also amends the SC Code to provide that individuals who are using the retirement income deduction may use this figure in determining whether or not a return is actually required. The bill also adds language to the SC Code providing that the SC Department of Revenue is not subject to provisions of the South Carolina Solicitation of Charitable Funds Act as contained in Chapter 56, Title 33 of the SC Code. The bill also clarifies the proposed assessment of liability which may be issued by the Department of Revenue if a person fails to file or files a false return on admissions tax. The bill also clarifies current language in the SC Code providing that liquefied petroleum gas is included in the sales tax exemption for sales of 20 gallons or less by retailers for the use of residential heating. The bill also deletes language in the SC Code which eliminates "other penalties" related to underpayment of declarations of estimated tax. The bill also clarifies that taxpayer names and addresses may be disclosed to the SC Retirement System in relation to the disposition of inactive accounts. The bill also adds the US Department of Education to the definition of "claimant agency" for purposes of the Debt Setoff Act. The bill clarifies the definition of "debtor" by striking the words "an individual" and inserting the words "a person," which results in corporations being included in that definition.

The committee recommended amending the bill by: deleting Section 5, which transfers current rollback millage language to Title 6 of the SC Code of Laws; deleting Section 17, which deletes rollback language in Chapter 37 of the SC Code of Laws; and deleting Section 18, which deletes language eliminating other penalties related to underpayment of declarations of estimated tax. Additionally, the committee recommended amending the bill by allowing extensions on filing tax returns, payment of taxes, collection of taxes, and conducting audits, and allowing a waiver of interest and penalties due to damage caused by war, terrorist act, natural disaster, or service within the armed forces in or near a hazard duty zone.

The committee also recommended amending the bill by adding a provision that only the taxpayer legally liable for the tax may file a refund claim or receive a refund, except under specified conditions. The committee also added a provision that the assignment of a refund may be made after the Department of Revenue has authorized the refund and issued an order for the refund to the State Treasurer's Office.

The committee also added an amendment to the bill concerning replacement property, qualifications, and conditions included in the Fee in Lieu of Taxes Simplification Act of 1997. The committee added a provision stating that replacement property is deemed to replace the oldest property subject to the fee, whether real or personal, which is disposed of in the same property tax year as the replacement property is placed in service. The committee recommended deleting the provision of the Act which states that where a single piece of property replaces two or more pieces of economic development property, the time period remaining must be measured from the earliest of the dates on which the replaced pieces of economic development property were placed in service.

▪ **H.3836 SPECIAL SALES TAX PROVISIONS**

The committee gave a favorable report to **H.3836**. This bill makes numerous technical amendments, and makes consistent the language in the special sales tax provisions related to correction of errors, implementation dates, and distribution of funds. Proposed changes include: Amending the Local Capital Project Sales Tax Statute date for certification of referendum results; Amending the Local Capital Project Sales Tax statute by deleting the requirement for retailers to break out sales by city; Amending the Local Capital Project Sales Tax Statute by providing that allocations made as a result of city or county coding errors must be corrected prospectively; Amending the Local Capital Project Sales Tax statute by providing that the Department of Revenue shall remit to the State Treasurer any unidentified funds collected, which cannot be identified to any specific county; Amending the Local Transportation Tax Statute by changing the certification date of referendum results, changing the effective date after the referendum, and providing that allocations made as a result of city or county coding errors must be corrected prospectively; Amending the Local Transportation Tax Statute by providing for the Department of Revenue to remit to the State Treasurer unidentified collected funds which cannot be identified to a specific county, and providing for these funds to be distributed back to the local governments on a proportional basis; Amending the Local School District Tax by making a technical change and by also providing that allocations made as a result of city or county code errors must be corrected prospectively and must be distributed back to the local governments on a proportional basis; Providing that the Department of Revenue may expend funds resulting from any fees charged and retained and may carry these funds forward from one fiscal year to the next; Allowing disclosure of documentation concerning any claims or uncollected taxes or fees, and allowing disclosure of this information to the taxpayer's attorney.

▪ **H.3951 BUSINESSES WHICH SELL BEER OR WINE**

The committee gave a favorable recommendation to **H.3951**. This bill exempts from those acts that are prohibited in an establishment licensed to sell beer or wine, promotional games conducted in connection with the sale or promotion of a consumer product or service in which no entry fee or purchase is required of a participant and this no fee or purchase requirement is clearly disclosed.

▪ **H.3649 JOB TAX CREDIT**

The committee gave a favorable report with amendment to **H.3649**. This bill, as introduced, amends the statutory definition of "new job" for purposes of claiming the job tax credit, by adding to the definition a job reinstated after the employer has rebuilt a facility due to involuntary conversion, by eminent domain or condemnation, of a prior existing facility.

The committee recommended amending the bill by adding a provision stating that for a qualifying project under SC Code Section 12-20-105 (B)(2) (a project consisting of an office, business, commercial, or industrial park which is constructed by a county or political subdivision of this State) infrastructure improvements include industrial shell buildings and the purchase of land for an office, business, commercial, or industrial park which is constructed by a county or political subdivision of this State.

▪ **H.3357 JOINT MUNICIPAL WATER SYSTEMS**

The committee gave a favorable recommendation with amendment to **H.3357**. This bill, as introduced, amends the Joint Municipal Water Systems Act (SC Code of Laws, Title 6, Chapter 25). A "joint municipal water system" is currently defined as a public body corporate and politic whose members' governing bodies have agreed to create a system to undertake the impounding, acquisition, treatment, production, transmission, distribution, service, and sale of water to a municipality which is a member of the system and other municipalities, and persons which are not members when approved by the governing body of each member.

The bill, as introduced, provides that the members may also create a water system for the purpose of creating a *financing pool*. A "financing pool" is defined in the bill as a fund of money, obtained through the issuance of a construction note of a joint municipal water system, which may be loaned to the members of it by way of interim financing. A joint municipal system created for this purpose may issue from time to time its construction notes for the purpose of creating a financing pool and providing funds to defray the cost of administration of the financing pool and the costs of issuance of the construction notes. The bill provides for issuance of and uses of the proceeds from construction notes and for use of monies in a financing pool. The bill provides that the income of a joint system is exempt from state taxes, and that none of the income, profits, or assets of a joint system may inure to the benefit of any individual or private entity.

The committee recommended amending the bill by striking the words "cost" or "cost of a project" and striking the definition of these terms, and replacing that language with the terms "construction note" or "notes" and adding that the definition of these words is "notes of a joint system issued to provide funds for the creation of a financing pool and costs associated with it."

▪ **S.488 EXPENDITURE OF PUBLIC FUNDS BY INSTITUTIONS OF HIGHER LEARNING**

The committee gave a favorable recommendation with amendment to **S.488**. This bill, as introduced, provides that costs associated with events and meetings at colleges, universities, and technical colleges honoring excellence and accomplishments of students, guests, faculty, and employees are considered to meet the public purpose test and therefore may be paid by the institution. The bill provides that the institution's governing board must establish policies for the expenditure of these funds.

The committee recommended amending the bill by striking these provisions and adding more specific language, providing that pursuant to written policy adopted by the governing board of a public institution of higher learning, the institution may expend funds from revenues derived from athletics, student contests, student organizations, operations of canteens and bookstores, approved private practice plans and all nonappropriated state funds, for events which recognize academic and research excellence and noteworthy accomplishments of members of the faculty and staff, students, and distinguished guests of the institution. The committee's recommendation also includes a provision that such an expenditure of funds is considered to meet the public purpose test for the expenditure of public funds. The committee also recommended adding a provision that approved written policies are to be sent to the Commission on Higher Education.

▪ **H.3118 STATE EMPLOYMENT COMPENSATION FUND**

The committee gave a recommendation of favorable with amendment to **H.3118**. This bill, as introduced, adds to the *SC Code of Laws* a section providing for the applicable contribution rates with respect to the computation of the statewide reserve ratio for employer contributions to the State Unemployment Compensation Fund, for the period 1/1/99 through 12/31/99, and for each such annual period thereafter. The rates as provided in the bill are based on the resultant percentage of the employer's reserve balance divided by the annual payroll.

The committee recommended amending the bill by lowering the statewide reserve requirements from 3% to 2% of total wages; establishing a single base rate; and establishing a new mechanism which would be effective if the "statewide reserve ratio" falls below 2% of total wages.

▪ **H.3748 LEASE PURCHASE/FINANCING AGREEMENTS**

The committee gave a favorable report with amendment to **H.3748**. This bill, as introduced, amends current law regarding Lease Purchase or Financing Agreements being subject to applicable constitutional debt limitations, so as to conform the treatment of a lease purchase agreement for energy efficiency products and a guaranteed energy savings contract in the calculation of the debt limit specifically excluding them from those types of agreements subject to the debt limit.

The committee recommended amending the bill by specifying that no such lease agreement or contract shall constitute in any manner an agreement, consent, authority, or otherwise to provide retail sales of energy by an energy or power provider or creates the authority to sell or provide retail energy or power.

▪ **H.3522 ORGANIZATION AND POWERS OF THE MUSC BOARD OF TRUSTEES**

The committee gave a favorable recommendation to **H.3522**, which allows the Medical University of South Carolina Board of Trustees to purchase, sell, or lease real and personal property, in accordance with the State Procurement Code.

## **BILLS INTRODUCED IN THE HOUSE THIS WEEK**

### **AGRICULTURE, NATURAL RESOURCES, AND ENVIRONMENTAL AFFAIRS**

**H.3953 SOUTH CAROLINA TOBACCO COMMUNITY DEVELOPMENT BOARD**

**Rep. Battle**

This bill establishes the South Carolina Tobacco Community Development Board. The purpose of the Board is to provide economic aid to tobacco growers and tobacco quota holders in South Carolina. Under the bill, the Board is composed of fourteen members. Members serve four-year terms until their successor are appointed and qualify. The bill does provide limitations on the amount of terms that a member may serve on the Board. However, under the bill some initial members will serve two-year terms. Members serve without pay but are entitled to the usual mileage, per diem, and subsistence provided to other members of state boards and commissions.

**S.659 "TOBACCO ESCROW FUND ACT" Sen. McGill**

This bill enacts the "Tobacco Escrow Fund Act" which establishes a reserve fund to guarantee an eventual source of recovery from tobacco product manufacturers who are not a party to the Master Settlement Agreement between the state of South Carolina and other tobacco product manufacturers (signed November 23, 1988 by the State and leading tobacco manufacturers in the United States). The bill requires each tobacco product manufacturers who sells cigarettes to consumers within this state to either: (1) participate in the Master Settlement Agreement, or (2) place funds in an escrow account according to a payment plan that is based on the number of tobacco product units sold. These funds may be withdrawn from the escrow account to pay a future judgement or settlement. A tobacco product manufacturer who places funds in the escrow account shall receive the interest or other appreciation on such funds as earned. If, during a given year, a tobacco product manufacturer paid more into the escrow account than would have been owed if the manufacturer had been participating in the Master Settlement Agreement, the excess funds are to be returned to the tobacco product manufacturer. If funds held in escrow are not released to pay a judgement or settlement, etc., funds shall be released and returned to tobacco product manufacturers twenty-five years after the date they were first placed in

escrow. The legislation requires tobacco product manufacturers who are placing funds in escrow to annually certify to the Attorney General that they are in compliance with the legislation. Any tobacco manufacturer who fails in any year to place the required funds into escrow will be notified by the Attorney General who may bring a civil action against the manufacturer. The court may impose a civil penalty not to exceed 5% of the amount improperly withheld from escrow per day of the violation and in total not to exceed 100% of the original amount improperly withheld from escrow. For known violations, the penalty is up to 15% of the improperly withheld amount and a total of up to 300% of the original amount improperly withheld from escrow. If a manufacturer knowingly withholds funds a second time, the manufacturer will be prohibited from selling cigarettes to consumers in this state for up to two years and must pay reasonable costs and attorney's fees incurred by the State for enforcement of the fund.

## EDUCATION AND PUBLIC WORKS

### **S.727 ALTERNATIVE SCHOOLS Senate Education Committee**

This bill provides for a system of alternative schools for specified students in grades 6-12. The bill provides that a school district may receive funding if it chooses to establish, maintain, and operate an alternative school either individually or through a cooperative agreement with other districts. The bill also repeals current law regarding competitive grants to fund alternative schools.

## JUDICIARY

### **H.3943 PAYMENT OF LEGAL FEES TO PRIVATE ATTORNEYS WHO CONDUCT LITIGATION FOR THE STATE Rep. D. Smith**

This bill requires the Attorney General to promulgate regulations concerning the payment of legal fees to private attorneys who conduct litigation for the State. Before the Attorney General may authorize payment, the bill requires the Budget and Control Board to approve all private attorney fee statements for work done on contract with the Attorney General. The bill gives the Budget and Control Board final authority to overrule payment of the fee.

### **S.353 CHICORA-WACCAMAW AND PEE DEE INDIAN TRIBES Sen. Elliott**

This bill recognizes the Chicora-Waccamaw Indian Tribe and the Pee Dee Indian Tribe as Indian Tribes of South Carolina. The bill confers upon these tribes all rights and privileges that are provided by law to Indian tribes of this State.

### **S.585 ASSESSMENTS IMPOSED ON CONVICTIONS IN GENERAL SESSIONS, MUNICIPAL, AND MAGISTRATE'S COURT Sen. McConnell**

This bill pertains to additional assessments imposed on convictions in General Sessions, Municipal, and Magistrate's Court. Currently, any funds distributed to or retained by the county treasurer which are not used for the provision of victim services at the end of the fiscal year may be used for the capital or operating needs of the judicial system. Under this bill, all unused funds must be carried forward from year to year and used exclusively for the provision of services for victims of crime.

### **S.708 SEX OFFENSES Sen. Judiciary Committee**

This bill amends definitions relating to various sex offenses:

- under this bill "sexual conduct" would include lewd exhibition of female breasts

- the bill expands the definition of "harassment" to include electronic contact
- under this bill "sexual activity" includes touching one's self or another person in an act of apparent sexual stimulation or sexual abuse, of the clothed, or unclothed genitals, pubic hair, or buttocks of another person or the clothed or unclothed breasts of a human female
- the bill also provides definitions for the following terms: "sexual battery," "sexual fondling," "intimate parts," and "actor"

The bill prohibits a person from enticing a minor under the age of sixteen to engage in "sexual battery" or "sexual fondling." Under the bill, sexual enticement includes, but is not limited to, oral or written communications by telephone, computer, or other electronic means. Penalties are established for failure to comply.

Under this bill, a magistrate may not charge a fee for filing a petition for an order of protection from domestic abuse.

This bill adds several offenses to the list of offenses for which a person must register with the Sex Offender Registry.

**H.3957 "SOUTH CAROLINA STRUCTURED SETTLEMENT PROTECTION ACT"**

**Rep. Harrison**

This bill outlines procedures to regulate the transfer of structured settlements. The bill requires court approval in advance for the transfer of structured settlement payments rights. The bill establishes 1) disclosure and filing requirements, and 2) findings needed for court approval of such transfers. The bill also establishes the jurisdiction of the circuit courts for approving transfers of structured settlements.

**H.3958 COMMISSIONER OF INSURANCE Rep. Lee**

Under this bill, the governing authority of the Department of Insurance would be the "Commissioner of Insurance." This bill deletes the definition of "Director of the Department of Insurance" (Director) and substitutes it with "Commissioner of Insurance" (Commissioner). While the Director is appointed, under this bill the Commissioner would be elected. The bill provides that the Commissioner is subject to removal from office as may be provided by law for any other officers of the executive department of this state. The bill replaces references to the Director in the *South Carolina Code of Laws* with references to the Commissioner. The bill also deletes certain provisions concerning the Director.

**H.3967 VOYEURISM Rep. J. Smith**

This bill creates the felony offense of voyeurism by prohibiting a person from photographing, videotaping, or filming another person 1) without consent, and 2) in a place where the person has a reasonable expectation of privacy. Penalties are established for failure to comply. However, the bill does not apply to photographing, videotaping, or filming by certain law enforcement officers for security purposes or during the investigation of alleged misconduct of a person in custody.

**H.3969 REMOVAL OF DANGEROUS STRUCTURES FROM PROPERTY**

**Rep. Townsend**

Under this bill, within three years of notification an absentee landowner must remove a dangerous structure from his or her property. The outlines what information the notice must contain.

If an absentee landowner attempts to sell the property with the dangerous structure after receipt of the notification, the bill requires the absentee landowner to provide a copy of the

notification to all prospective purchasers of the property. Under the bill, anyone who purchases the property must remove the structure within 500 days of the purchase of the property.

If the absentee landowner fails to remove the dangerous structure in a timely manner, the bill authorizes a municipality to 1) file suit to compel the absentee property owner to remove the structure, or 2) remove the structure and file suit to recover the costs associated with the lawsuit and the removal of the dangerous structure.

**S.403 CHILDREN IN FOSTER CARE WITH THE DEPARTMENT OF SOCIAL SERVICES Sen. Courtney**

The bill revises the Department of Social Services' (DSS) duties when conducting visits with foster children, foster parents, and other adults living in the foster home. If a caseworker suspects that a child has been abused or neglected, the bill requires the caseworker to interview the foster child outside the presence of anyone living in the foster home. Under the bill, foster parents have a duty to make themselves reasonably available for interviews and to take reasonable steps to facilitate caseworkers' interviews with other adults living in the foster home. Any foster parent that fails to comply with his or her duties as a foster parent is subject to having his or her foster parent's license revoked.

**S.403** outlines circumstances that the Court should consider when determining whether to disclose the actual location of a child in that child's placement plan. Factors to be considered by the Court include evidence of sexual abuse, physical abuse, substance abuse, or criminal domestic violence by an adult living in the child's home. When disclosure of the child's location is determined to be contrary to the best interests of the child, the bill prohibits disclosure to the abusing party and any member of the abusing party's household.

The bill requires DSS to disclose certain information regarding the child to the foster parents at the time of placement. Under the bill, caseworkers are required to disclose to the foster parents any information regarding the child that could affect 1) the ability of the foster parents to care for the child, or 2) the health and safety of the child or foster family.

This bill expands the admissibility of out-of-court statements to include children who function cognitively, and adaptively, or developmentally under the age of twelve.

Under the bill, the family court is authorized to hear and determine actions concerning control of the person of a minor, including guardianship of the minor.

**S.403** applies the definitions used in *South Carolina Code of Laws* §20-7-490 to other articles in the Children's Code.

Under this bill, individuals required to report child abuse and neglect must report to law enforcement if the perpetrator is not a "person responsible for the child's welfare." The bill also provides reporting and confidentiality provisions for the exchange of information between DSS and law enforcement agencies.

The bill expands immunity from liability for reporting abuse and neglect to persons who participate in an investigation of abuse or neglect. The bill also expands the immunity from liability to cover full disclosure by a person of the facts that gave the person reason to believe the child might have been abused or neglected. Under this bill, DSS contract employees performing child welfare function have immunity from liability.



When a child is taken into emergency protective custody, a probable cause hearing must be held. This bill revises certain probable cause hearing procedures.

This bill clarifies that when medical professionals detain an abused or neglected child without parental consent that such detainment is not considered keeping a child in emergency physical custody. This bill also clarifies that DSS is not required to begin an investigation within twenty-four hours of a child's death due to abuse or neglect unless 1) other children are in the home or 2) the alleged perpetrator is the parent or guardian.

**S.403** amends provisions pertaining to the confidentiality of reports and records maintained by DSS and the Central Registry of Child Abuse and Neglect. Currently, a ten-year-old who is the subject of a report may have access to his or her records; the bill increases the age to fourteen. This bill allows DSS to disclose necessary information to participants in a family group conference.

## **LABOR, COMMERCE AND INDUSTRY**

### **S.706 EFFECTIVE DATE FOR THE LOCAL GOVERNMENT COMPREHENSIVE PLANNING ENABLING ACT OF 1994 Sen. Holland**

This bill provides counties and municipalities an extension on the time by which they must comply with provisions related to zoning and planning authority imposed under the South Carolina Comprehensive Planning Enabling Act of 1994. Under the 1994 Act, local governments must be in compliance by May 3, 1999, and pre-existing state and local provisions are repealed. The bill extends the effective date to December 31, 1999.

## **MEDICAL, MILITARY, PUBLIC AND MUNICIPAL AFFAIRS**

### **S.33 MEDICAL DISCIPLINARY COMMISSION Sen. Moore**

Currently, the Medical Disciplinary Commission has 18 members. This bill increases the number of members to 36. The bill requires 6 of the members to be elected at-large from across the state. Under the bill, at-large members must be currently licensed and actively practicing medicine in South Carolina.

### **S.120 TATTOOING Sen. Mescher**

This bill permits tattooing of persons over the age of twenty-one, so long as the person's age is verified through use of a picture identification card. The bill permits tattooing of individuals under twenty-one with parental and / or guardian consent. The original consent may be kept on file for a period of two years from the date of the tattoo at the establishment performing the tattoo.

A person under the age of twenty-one who is tattooed in violation of the provisions of this bill may bring an action to recover actual damages, punitive damages, plus costs of the action, and attorney's fees. However, proof that the defendant demanded, was shown, and reasonably relied upon proof of age is a defense.

Under the bill, it is illegal to tattoo any part of the head, face, or neck of another person. The bill provides for medical exceptions.

The bill requires tattoo artists to apply and obtain a permit issued by the South Carolina Department of Health and Environmental Control (DHEC). Failure to comply with

procedures outlined in this bill authorizes DHEC to revoke a permit or deny an application for a new or renewed permit.

Tattoo artists must display the following:

- a notice to patrons informing them that tattooing may disqualify them from being able to donate blood according to standards of the American Association of Blood Banks (this notice must also appear on consent forms)
- the certificate of successful completion of a course in infection control
- proper tattooing permit

The bill outlines procedures that tattoo artists must follow in order to comply with DHEC infection control precautions. The bill outlines under what circumstances a tattoo artist may use 1) stencils or transfer designs, or 2) alum or styptic pencils considered necessary to control bleeding.

**S.239 RIGHTS OF PHYSICALLY DISABLED PERSONS Sen. Giese**

This bill promotes the use of assistance dogs by physically disabled persons, and the bill assures equality of opportunity, participation, and treatment of persons with disabilities using guide dogs. The bill provides civil remedies and criminal penalties for violations.

**S.494 SALE OF HYPODERMIC NEEDLES AND SYRINGES Sen. Saleeby**

This bill exempts certified durable medical equipment providers from the requirements of *South Carolina Code of Laws* 34-53-950 (audit or records) when a hypodermic needle or syringe is sold to insulin dependent diabetics.

**S.728 "AUTOMATED EXTERNAL DEFIBRILLATOR ACT"  
Sen. Medical Affairs Committee**

Under this bill, a person or entity that acquires an automated external defibrillator (AED) must:

- require its designated AED users to have current training in CPR and AED use by the American Heart Association, American Red Cross, or National Safety Council
- maintain and test the AED according to the manufacturer's operational guidelines and keep written records of maintenance
- employ or obtain a health care professional to serve as its AED liaison
- have in place an AED program approved by its AED liaison
- include in its AED protocol or guidelines that a person who renders emergency care using an AED must activate the emergency medical services system or 911 as soon as possible
- report any clinical use of the AED to the AED liaison

Any person or entity 1) acting in good faith, and 2) acting gratuitously is immune under this bill from civil liability for the application of an AED, unless the person or entity was grossly negligent. Under the bill, a person or entity acquiring an AED and meeting the above-requirements shall be immune from civil liability for the application of an AED. A prescribing doctor shall be immune from civil liability for authorizing the purchase of an AED, unless the authorization was grossly negligent.

This bill does not apply to emergency medical services, a doctor's office, or a health care facility.

## WAYS AND MEANS

### **H.3951 PROHIBITED ACTS IN ESTABLISHMENTS THAT SELL BEER AND WINE** Rep. Harris

This bill exempts from those acts that are prohibited in an establishment licensed to sell beer or wine, promotional games conducted in connection with the sale or promotion of a consumer product or service in which no entry fee or purchase is required of a participant and this no fee or purchase requirement is clearly disclosed.

### **H.3952 GAMBLING ADDICTION** Rep. Loftis

This bill adds to the statutes regarding video poker, a definition for the phrase "warning label." The phrase is defined as *"a white label containing the phrase '**WARNING: GAMBLING CAN BE ADDICTIVE**' in capital black letters not less than two and one-half inches in height and one and one-half inches in width, followed by the phrase '**CALL 1-XXX-XXX-XXXX FOR HELP WITH GAMBLING ADDICTION**' in capital black letters not less than one inch in height and one-half inch in width."*

The bill requires that every licensed video game machine must display a warning label, the \$100-per-machine cost of which will be paid by the owner of the machine to the Department of Revenue, and used to create a special fund known as the "Gambler's Addiction Fund." The bill requires that monies from this fund must be used to provide gambling addiction education; to provide training, certification, and licensing for gambling addiction counselors; and to provide free counseling services to gambling addicts and their families.

The bill also requires that machine owners must have available for free distribution a pamphlet which includes specified information for compulsive gamblers and a toll-free number for such gamblers to call for help.

### **H.3963 COUNTYWIDE REASSESSMENT AND EQUALIZATION PROGRAM** Rep. Quinn

This bill provides for a delay in the implementation of the revised values resulting from a countywide reassessment and equalization program in jurisdictions which cross county lines, except where all counties in which the jurisdictions located simultaneously implement such a program.

### **H.3968 REGULATION, LICENSING, TAXATION, AND CIVIL AND CRIMINAL ENFORCEMENT OF CERTAIN GAME MACHINES** Rep. Jennings

This bill provides for regulation, licensing, taxation, and civil and criminal enforcement of video gaming machines in South Carolina. This bill does not propose a referendum to ban video poker. Highlights of provisions of **H.3968** include, but are not limited to:

- A two dollar per hand bet limit (currently there is no limit);
- A \$125 per hand or per jackpot winnings cap (current limit is \$125 daily per player);
- A requirement that a computer monitoring system be in place by September of 1999 (current deadline is May 31, 1999);
- A requirement that machines close between 2 a.m. and 6 a.m. every day;
- A prohibition on advertising of video gambling on a building's exterior except for a green dot;

- A prohibition on consumption of alcohol at any business with video gambling machines;
- A requirement for warning labels stating the addictive nature of video gambling;
- A prohibition against locating Automatic Teller Machines and check cashing services in gambling casinos;
- In addition to license fees included in the bill, a tax of 30% on the net machine income of every machine, imposed on the machine owner;
- A phased-in 15% tax (in addition to license fees and the above-referenced 30% tax) on the net machine income of every machine within an establishment which is within 500 feet of another establishment in the same structure, and both establishments have machines with the same owner or principal;
- An entertainment tax of 7% on a player's winnings, imposed on the machine owner (to be withheld from the player's winnings);
- Prescribed procedures for payment and enforcement of machine taxes and fees, and procedures for machine monitoring;
- Restrictions regarding location, notice requirements if an owner is applying for an establishment license within one hundred feet of another licensed establishment, and signage requirements/restrictions;
- Required standards (including technological requirements) for machines, which must be met as a condition of licensing the machine;
- A stipulation that 80% of video gambling revenues must be used for education. Currently, video game poker machine owners pay a license fee but no special tax.
- Provisions requiring background investigations on manufacturers, distributors, establishment owners, machine owners, machine operators, service technicians, and their principals, with a requirement that a license be denied if the investigation reveals certain specified information;
- Civil and criminal penalties ranging from fines and license suspension to imprisonment, for failure to comply with the provisions of the bill;
- Provisions requiring that revenue from the taxation, penalties, and interest on the machines must be distributed as follows: \$4 million to the SC Department of Alcohol and other Drug Abuse Services for a program to treat gambling addicts, with the funds to be distributed as provided in the bill; not less than 20% of the remaining funds must be used for local infrastructure needs; and the balance of the funds must be used for education projects.
- A provision that after a specified date, existing casinos may re-apply for renewal of a license for a maximum of one biennial licensure period. After that period, a new license may not be issued.

**H.3972 APPROPRIATION OF SURPLUS FUNDS Rep. Barrett**

This bill provides that no bill or joint resolution may appropriate surplus funds for recurring expenditures of state agencies. The bill defines "recurring expenditures." The bill does not

prohibit the appropriation or other use of surplus funds to prevent an operating deficit of a state agency or in the annual state budget.

**H.3973 LIMITS ON APPROPRIATION OF SURPLUS FUNDS Rep. Barrett**

This bill provides for designation and use of surplus fund revenues realized at fiscal year end for cash payments for previously approved capital projects and to pay off existing debt, in specified percentages.

**H.3974 MUNICIPAL IMPROVEMENTS DISTRICTS Rep. Edge**

This bill further defines the powers of municipal governing bodies with respect to financing and levying assessments upon such districts.

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The *Legislative Update* is on the Worldwide Web. Visit the South Carolina General Assembly Home Page ([www.lpitr.state.sc.us](http://www.lpitr.state.sc.us)) and click on the "Quick Find Guide." On the next screen, click on "Legislative Updates." This will list all of the *Legislative Updates* by date. Click on the date you need.

**SPECIAL NOTE:** A cumulative index to the weekly issues of the *Legislative Update* has been added to the *Legislative Update* page on the Worldwide Web. Bills are listed in numerical order in this index. Each bill number is followed by a list of hypertext links (in chronological order) to every reference to that bill in any issue of the *Legislative Update* during the current session, 1999-2000. This is an easy way (just click on the links) to find summaries of bills introduced into the House and to follow the progress of a bill through House committees and on the floors of the House and Senate.